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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF DELAWARE

4 ETHYPHARM S.A. FRANCE and :
5

6 Plaintiffs.

7 VS. : CASE NO.

8 BENTLEY PHARMACEUTICALS, : 04-13000-SLR

9 INC.,

10 Defendant.

13 DEPOSITION OF MICHAEL D. PRICE, a witness
14 called by and on behalf of the Plaintiffs, taken
15 pursuant to the applicable provisions of the
16 Federal Rules of Civil Procedure, before
17 Sandra L. Bray, Registered Diplomatic Reporter,
18 CSR Number 103593, and Notary Public in and for
19 Commonwealth of Massachusetts, at the offices of
20 Edwards Angell Palmer & Dodge LLP,
21 111 Huntington Avenue, Boston, Massachusetts, on
22 Tuesday, July 25, 2006, commencing at 9:13 a.m.

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 Representing the Plaintiffs: 3 BAACH ROBINSON & LEWIS PLLC 4 1201 F Street, NW 5 Suite 500 6 Washington, D.C. 20004 7 BY: JONATHAN D. FINE, ESQUIRE 8 DWIGHT P. BOSTWICK, ESQUIRE</p> <p>9 10 Representing the Defendant: 11 EDWARDS ANGELL PALMER & DODGE LLP 12 111 Huntington Avenue 13 Boston, Massachusetts 02199 14 BY: JOSEPH P. MINGOLLA, ESQUIRE</p> <p>15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS. Continued 2 NO. DESCRIPTION PAGE NO. 3 13 Copy of E-mail to Mr. Murphy from Mr. Fitzgibbons, dated 4 11-30-01, and Attachment 171 5 14 Copy of E-mail to Mr. Bolling, et al. from Mr. Fitzgibbons, 6 dated 11-17-01 179 7 15 Spanish Document and Translation 187 8 9 16 Spanish Document, Bates Numbers BEL051001-051009 202 10 17 Spanish Document, Bates Numbers BEL051010-051015 203 11 12 18 Spanish Document from; Ms. Villalobos, dated 12-30-03 205 13 19 Spanish Document D1-A, Bates Numbers BEL051020-051023 205 14 15 20 Invoice from Laboratorios Belmac S.A. 206 16 21 Invoices from Pharma de Espana 210 17 22 Copy of E-mail, dated 12-12-01 224 18 23 Contrato de Tranferencia de Tecnología y Cesión de Know How, and Translation 227 19 20 24 Bentley Pharmaceuticals Board of Directors August 14-15, 2003 Meeting Minutes 236 21 22 23 24</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX 2 WITNESS: PAGE NO. 3 MICHAEL D. PRICE 4 BY MR. FINE 7, 249 5 BY MR. MINGOLLA 242</p> <p>6 7 EXHIBITS 8 NO. DESCRIPTION PAGE NO. 9 1 2001 10-K 23 10 2 Document Bates Numbers 11 BEL 006982-006987 33 12 3 Bentley Pharmaceuticals Inc. List of Subsidiaries 47 13 4 1999 10-K 67 14 5 2000 10-K 73 15 6 2002 10-K 99 16 7 Fax to Mr. De Basilio from Mr. Murphy, dated 1-19-95 106 17 8 Press Release, dated 10-10-00 111 18 9 Press Release, dated 11-14-01 121 19 10 Presentation to Pernigo 125 20 11 Letter to Mr. De Basilio from Mr. Herrera, dated 11-14-01 161 21 12 Letter to Mr. De Basilio from Mr. Herrera, dated 11-14-01 161</p>	<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS 2 (The Florida driver's license number as 3 identification of the deponent was noted 4 for the record.) 5 MICHAEL D. PRICE, having duly sworn or 6 affirmed that his testimony would be the truth, 7 the whole truth, and nothing but the truth, 8 testified as follows: 9 * * * 10 MR. FINE: Okay. Thank you. Before 11 we begin, I'd like to put a brief statement on 12 the record. Actually, could we go off the 13 record for a second? 14 (Discussion off the record) 15 MR. FINE: As I just discussed with 16 Mr. Mingolla, I'd like to put a brief statement 17 on the record, that Ethypharm months ago 18 requested some documents relating to 19 intercompany transactions, including documents 20 relating to the forgiveness of approximately 6.7 21 million euros -- that's \$8 million about -- in 22 credits extended to Laboratorios Belmac by 23 Bentley Pharmaceuticals during time periods 24 relevant to this litigation. In order to depose</p>

2 (Pages 2 to 5)

Page 6

1 Bentley's executives and officers, including
 2 Mr. Price, Bentley first agreed to produce
 3 documents on this subject last Thursday evening,
 4 and Ethypharm received a few documents
 5 purporting to relate to the loan forgiveness
 6 issue yesterday. They're in Spanish, and we
 7 haven't had the opportunity to understand them
 8 adequately. Ethypharm has agreed to go ahead
 9 with this deposition and ask questions in this
 10 area, but to the extent that our ability to
 11 explore the area has been compromised, Ethypharm
 12 reserves all its rights, including the right to
 13 recall Mr. Price or Mr. Murphy or others for
 14 further questioning on this subject.

15 MR. MINGOLLA: And if I may at this
 16 point just interject and note that I will
 17 refrain from commenting completely on the
 18 substance of Mr. Fine's representation. We, of
 19 course, will disagree that the documents were
 20 requested months ago, that we responded actually
 21 before the deadline set forth in the rules, and
 22 we will address that issue, if need be, in due
 23 course outside of the deposition.

24 * * *

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1 what we can do about taking a break. The
 2 purpose of this isn't to torture. And the only
 3 caveat on that is that we won't take a break
 4 between a question and your answer, but we can
 5 take a break after those.

6 And I'd ask you -- by agreement of the
 7 parties, we've agreed for these depositions not
 8 to discuss or if the witness, which is you in
 9 this instance, would not discuss the substance
 10 of your testimony with lawyers during the
 11 deposition during a break, that would be good.

12 A. Okay.
 13 Q. You're now employed by Bentley Pharmaceuticals,
 14 Incorporated; is that correct?
 15 A. That's correct.
 16 Q. What is your present position or positions with
 17 them?
 18 A. I am vice president, chief financial officer,
 19 secretary, and treasurer.
 20 Q. Do you have any other positions with Bentley?
 21 A. Not with Bentley Pharmaceuticals, no.
 22 Q. Do you serve on Bentley's board of directors?
 23 A. I do not.
 24 Q. You do not. Have your positions with Bentley

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1 EXAMINATION BY MR. FINE:

2 Q. Okay. Mr. Price, thank you for coming here
 3 today. I really appreciate it. And I'd like to
 4 go over a couple of sort of basics about a
 5 deposition before we really start. Have you
 6 ever been deposed before?
 7 A. I have.
 8 Q. You have. How many times?
 9 A. I would guess a half a dozen.
 10 Q. Okay. Basically -- were those in U.S. matters?
 11 A. They were U.S. matters.
 12 Q. The basic format of a deposition is that I'll
 13 ask you questions and you answer them under
 14 oath. Do you understand that?
 15 A. I do.
 16 Q. Okay. And for the benefit of our court
 17 reporter, you have to answer my questions orally
 18 because she can't take down a nod of the head or
 19 uh-huh or huh-uh. That's sometimes unclear. So
 20 if you could give a clear answer --
 21 A. Okay.
 22 Q. -- verbally rather than nodding your head, that
 23 would be terrific. And if you need a break at
 24 any time today, just let me know, and we'll see

1 changed since you were first employed there?
 2 A. They have.
 3 Q. When were you first employed?
 4 A. In March of 1992.
 5 Q. And what positions did you hold in 1992?
 6 A. I was hired in March of 1992 as the director of
 7 SEC reporting.
 8 Q. I'm sorry. Was that SEC?
 9 A. As in Securities and Exchange Commission
 10 reporting.
 11 Q. And who hired you?
 12 A. I was hired by Mark Ayers, who was the CFO at
 13 the time.
 14 Q. And what was your salary at that time?
 15 A. I think my beginning salary was \$60,000 per
 16 year.
 17 Q. Did you receive a bonus that year that you
 18 recall?
 19 A. I think I got a modest bonus of \$500 or
 20 something like that.
 21 Q. Did you receive any other compensation that
 22 year?
 23 A. I received stock options upon my hiring.
 24 Q. Approximately how many?

3 (Pages 6 to 9)

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1 A. 10,000, I think.
 2 Q. Okay. And was there any other compensation that
 3 year?
 4 A. Not that I recall.
 5 Q. And were you only the director of SEC reporting
 6 at that time or did you also hold any other
 7 positions?
 8 A. Later that year, I also became the director of
 9 investor relations.
 10 Q. In 1995 -- 1992?
 11 A. That's right.
 12 Q. Director of investor relations. Is that
 13 correct?
 14 A. That's right.
 15 Q. And did that position come with any change in
 16 salary or compensation?
 17 A. Not that I recall.
 18 Q. And in 1993, what positions did you hold?
 19 A. In 1993, I think I became vice president of
 20 finance.
 21 Q. And your compensation in that year?
 22 A. I don't recall.
 23 Q. Was it approximately the same as it had been the
 24 year before?

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1 documents.
 2 Q. Who else drafts them with you?
 3 MR. MINGOLLA: Are we talking present
 4 day, back in 1993?
 5 MR. FINE: In 1993.
 6 A. The company's attorneys, who at the time were
 7 Parker Chapin Flautau & Klimpl, would have been
 8 involved in that process.
 9 Q. Was anybody else at Bentley involved in that
 10 process? Actually, I should qualify something.
 11 Actually, at that time, I believe the company
 12 was called Belmac Corporation?
 13 A. It was, that's correct.
 14 Q. Was anyone else at Belmac Corporation involved
 15 in that process?
 16 A. Well, the documents were, once drafted, shared
 17 with officers and directors for comments and
 18 revisions and input. I would say the primary
 19 responsibility for drafting was me.
 20 Q. Okay. And when you say officers and directors,
 21 do you recall which officers and directors at
 22 the time?
 23 A. I could go back and speculate on names at that
 24 point, but whoever the existing officers and

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1 A. It was probably something higher but probably
 2 not materially higher.
 3 Q. Okay. And as VP of finance, did you also have
 4 responsibility for SEC reporting?
 5 A. I did.
 6 Q. And did you also have responsibility for
 7 investor relations?
 8 A. I did.
 9 Q. Okay. And what other responsibilities did you
 10 have at that time?
 11 A. I think I became corporate secretary during
 12 1993.
 13 Q. And as corporate secretary, what do you do?
 14 A. I essentially record the minutes of the meetings
 15 of the board of directors and to safeguard the
 16 corporate documents.
 17 Q. And as director of SEC reporting, what do you
 18 do -- what did you do?
 19 A. Make sure that all of the company's required
 20 filings with the Securities and Exchange
 21 Commission are made on a timely basis and are
 22 accurate and complete.
 23 Q. And do you draft those filings yourself?
 24 A. I'm certainly involved in the drafting of those

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1 directors were at the time, they were shared
 2 with.
 3 Q. Were there any officers and directors who you
 4 recall didn't review those?
 5 A. They were certainly all given an opportunity to
 6 do that.
 7 Q. And as director of investor relations, what were
 8 your responsibilities?
 9 A. To establish and maintain contact with the
 10 institutional investors as well as retail
 11 investors in the company's stock, to take phone
 12 calls from them and answer questions that they
 13 had.
 14 Q. Did you have any responsibility for press
 15 statements or press releases?
 16 A. I was involved with drafting press releases or
 17 making sure that the press releases were
 18 distributed.
 19 Q. Was anyone else at Belmac Corporation U.S.A.
 20 also involved in drafting or revising press
 21 statements or press releases?
 22 A. During that time frame?
 23 Q. Yes.
 24 A. Until I took control of the investor relations

Page 14	Page 16
<p>1 function, that was done by a person by the name 2 of Russ Ketchum.</p> <p>3 Q. So before you became director of investor 4 relations in 1992?</p> <p>5 A. Right, which I think was August of '92.</p> <p>6 Q. And did Mr. Ketchum or Ms. Ketchum stay on at 7 Belmac Corporation?</p> <p>8 A. No, he left in that time frame.</p> <p>9 Q. Did you have any other responsibilities in the 10 1992, 1993 time frame?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Did your positions or responsibilities change in 13 1994?</p> <p>14 A. At some point, I became chief financial officer, 15 but I couldn't tell you if that was in 1994 or 16 perhaps even in 1995.</p> <p>17 Q. And what were your responsibilities as chief 18 financial officer?</p> <p>19 A. To make sure that the financial records of the 20 company were complete and accurate, to also make 21 sure that all of the filings that were required 22 by either the stock exchange or the Securities 23 and Exchange Commission were made on a timely 24 basis and were complete and accurate.</p>	<p>1 1994 or 1995.</p> <p>2 Q. Did you receive any options in 1994 or 1995?</p> <p>3 A. I did.</p> <p>4 Q. Approximately how many?</p> <p>5 A. I would have to go back and look at the records. 6 I don't recall.</p> <p>7 Q. Do you recall it being more than the 10,000 that 8 you received when you were hired on?</p> <p>9 A. It was. It was more.</p> <p>10 Q. Was it --</p> <p>11 A. At one point, I received 90,000, but I couldn't 12 tell you what year that was. That may have been 13 '93.</p> <p>14 Q. Okay. And did your responsibilities or 15 position -- well, let me backtrack for a second. 16 As CFO, to whom did you report at Belmac 17 Corporation?</p> <p>18 A. I reported to the chairman, president, and CEO.</p> <p>19 Q. Who was that at that time?</p> <p>20 A. In what year?</p> <p>21 Q. 1994 or 1995, when you became CFO.</p> <p>22 A. In early -- for the first three-quarters of the 23 year in '94, that would have been Donald 24 Boulbee, and for the last quarter of 1994 and</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 A. Those are the only names that come to mind.</p> <p>2 Q. In 1996, did your responsibilities or positions</p> <p>3 change at all?</p> <p>4 A. I think by 1996, I think I had been made a</p> <p>5 member of the board of directors, and I think</p> <p>6 that happened in 1995, if I recall correctly,</p> <p>7 but other than becoming a board member, my</p> <p>8 duties and responsibilities did not change.</p> <p>9 Q. And your compensation in 1996, do you recall</p> <p>10 approximately how much you received in terms of</p> <p>11 a salary?</p> <p>12 A. I don't recall exactly, but I would guess that</p> <p>13 it was somewhere around 100,000 or maybe a</p> <p>14 little more.</p> <p>15 Q. And do you recall receiving a bonus in 1996?</p> <p>16 A. If I did, it was a relatively modest bonus.</p> <p>17 Q. Do you recall receiving any stock or options in</p> <p>18 1996?</p> <p>18 A. I received 400,000 stock options in 1996.</p> <p>19 Q. And did you receive any other compensation in</p> <p>20 1996?</p> <p>21 A. I don't recall receiving anything significantly</p> <p>22 other than that.</p> <p>23 Q. And when you say "significantly" --</p>	<p>1 Q. I'm just trying to get a better sense of going</p> <p>2 through a couple things whether that triggers a</p> <p>3 memory at all. 10,000?</p> <p>4 MR. MINGOLLA: Objection, asked and</p> <p>5 answered.</p> <p>6 A. You know, I really don't know. If I had the</p> <p>7 proxy statements here in front of me, I'd be</p> <p>8 happy to run through them, but I don't recall.</p> <p>9 It's almost ten years ago. I really don't</p> <p>10 remember.</p> <p>11 Q. In 1998, did your responsibilities change?</p> <p>12 A. No.</p> <p>13 Q. Do you recall approximately the compensation you</p> <p>14 received in 1998?</p> <p>15 A. I don't. I know that it increased each year,</p> <p>16 but I couldn't tell you how much it increased</p> <p>17 each year.</p> <p>18 Q. Do you recall receiving a bonus in 1998?</p> <p>19 A. I can't recall receiving it, but it's possible</p> <p>20 that I did.</p> <p>21 Q. Did you receive any stock or stock options in</p> <p>22 1998?</p> <p>23 A. I did not.</p> <p>24 Q. Did you receive any other compensation in 1998?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. If there were, perhaps health insurance benefits</p> <p>2 or 401(k) contributions or things of that</p> <p>3 nature, all of which are spelled out in our</p> <p>4 proxy statement.</p> <p>5 Q. Okay. And in 1997, did your position or</p> <p>6 responsibilities change at all?</p> <p>7 A. No.</p> <p>8 Q. And do you recall how much of a salary you</p> <p>9 received in 1997?</p> <p>10 A. I don't.</p> <p>11 Q. Was it more or less than the approximately</p> <p>12 100,000 --</p> <p>13 A. It was more.</p> <p>14 Q. -- you recall for 1996?</p> <p>15 A. It increased each year.</p> <p>16 Q. Do you recall approximately how much it</p> <p>17 increased by?</p> <p>18 A. I don't.</p> <p>19 Q. Was it 50,000 or 25,000?</p> <p>20 MR. MINGOLLA: Objection.</p> <p>21 A. I really don't know.</p> <p>22 MR. FINE: Counsel, if you could state</p> <p>23 the basis for your objection.</p> <p>24 MR. MINGOLLA: Asked and answered.</p>	<p>1 A. In 1998, I would have gotten a base salary,</p> <p>2 perhaps a bonus, 401(k) contributions, health</p> <p>3 insurance reimbursement, possibly some life</p> <p>4 insurance. That's all I recall.</p> <p>5 Q. And in 1999, did your positions or</p> <p>6 responsibilities change at all at Bentley</p> <p>7 Pharmaceuticals?</p> <p>8 A. No, there was no change in my corporate</p> <p>9 responsibilities.</p> <p>10 Q. So in 1999, you were CFO with responsibilities</p> <p>11 for investor relations, corporate secretary, and</p> <p>12 in charge of SEC reporting?</p> <p>13 A. And the finance department.</p> <p>14 Q. And the finance department. And do you recall</p> <p>15 approximately your compensation in 1999?</p> <p>16 A. I don't.</p> <p>17 Q. Okay. Did you receive any bonus or do you</p> <p>18 recall receiving any bonus in 1999?</p> <p>19 A. I received a -- I received 5,000 shares of stock</p> <p>20 that year as -- essentially as an attempt to</p> <p>21 equate my cost of living increase in New England</p> <p>22 compared to what it was in Florida, but I</p> <p>23 received no stock options.</p> <p>24 Q. Do you recall approximately all-in how much you</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 might have been compensated in 1999?</p> <p>2 A. I don't recall, but again, if I had the proxy 3 statement, I'd be happy to run through the 4 numbers with you.</p> <p>5 Q. In 2000, did your responsibilities change at all 6 from what they had been in 1999?</p> <p>7 A. No, they were the same.</p> <p>8 Q. Did your positions change at all in 2000?</p> <p>9 A. No, still the same.</p> <p>10 Q. Do you recall approximately how much you 11 received in salary in 2000?</p> <p>12 A. I don't.</p> <p>13 Q. Do you recall receiving a bonus in 2000?</p> <p>14 A. I can't specifically recall receiving a bonus in 15 2000.</p> <p>16 Q. Did you receive any stock or stock options in 17 2000?</p> <p>18 A. I received stock options in 2000, and I think 19 the number was 15,000.</p> <p>20 Q. Did you receive any other compensation in 2000?</p> <p>21 A. 401(k) contribution, life insurance, and health 22 insurance benefits.</p> <p>23 Q. I'd like to show you a document.</p> <p>24 MR. FINE: I'd like to have it marked</p>	<p>1 Q. Yes, absolutely.</p> <p>2 A. Okay.</p> <p>3 Q. In 2001, did your positions change at Bentley 4 Pharmaceuticals?</p> <p>5 A. No.</p> <p>6 Q. Did your responsibilities change?</p> <p>7 A. No.</p> <p>8 Q. Do you recall what you received in terms of 9 compensation in 2001?</p> <p>10 A. Not specifically, no.</p> <p>11 Q. Do you recall receiving a salary in 2001?</p> <p>12 A. I do.</p> <p>13 Q. Do you recall approximately how much that salary 14 was?</p> <p>15 A. I'm going to guess that it was perhaps 185,000.</p> <p>16 Q. Do you recall receiving a bonus in that year?</p> <p>17 A. It's possible I received a bonus, but I couldn't 18 tell you how much it was.</p> <p>19 Q. Do you recall receiving any stock or options in 20 that year?</p> <p>21 A. I received stock options, but I couldn't tell 22 you how many, and I don't think I received 23 shares of stock other than contributions to the 24 401(k) plan.</p>
<p style="text-align: right;">Page 23</p> <p>1 as Exhibit 1. 2 (2001 10-K was marked Exhibit Number 1 3 for identification.)</p> <p>4 Q. Do you recognize this document?</p> <p>5 A. I do.</p> <p>6 Q. What is this document?</p> <p>7 A. This is the company's annual report on Form 10-K 8 filed with the Securities and Exchange 9 Commission, and it's for the year ended 10 December 31st, 2001.</p> <p>11 Q. Were you involved in drafting this report?</p> <p>12 A. I was.</p> <p>13 Q. Okay. Did you review the final version of this 14 report before it was filed?</p> <p>15 A. I did.</p> <p>16 Q. Okay. Is this report an accurate statement of 17 the position of Bentley Pharmaceuticals for the 18 year 2001?</p> <p>19 A. Yes, it is.</p> <p>20 Q. Has any position of this document been restated?</p> <p>21 MR. MINGOLLA: Why don't you take the 22 time you need to review the document if you need 23 to answer that question.</p> <p>24 A. May I have just a moment?</p>	<p>1 Q. Do you recall receiving any other compensation 2 in 2001?</p> <p>3 A. Just the typical base salary, possibly bonus 4 401(k) contributions, life insurance, and health 5 insurance benefits. At one point, there were 6 15,000 shares of stock awarded to me, but I 7 couldn't tell you what year that was.</p> <p>8 Q. Was that reported --</p> <p>9 A. It was included in the proxy statement.</p> <p>10 Q. I'd like to draw your attention to a page 11 towards the back of the 10-K. It's marked F-15. 12 It's in Note 7, titled Related Party Notes. The 13 note says that the company provided loans to 14 each of Messrs. Murphy, Price, and Gyurik, who 15 are executive officers of the company, in the 16 amount of 250,000, 50,000, and 140,000, 17 respectively, in March 2000. Do you recall the 18 circumstances of these loans in 2000?</p> <p>19 A. Yes.</p> <p>20 Q. Could you tell me a little bit about them?</p> <p>21 A. Sure. The company had awarded stock to each of 22 those three officers.</p> <p>23 Q. Including yourself?</p> <p>24 A. Including myself, and at the time of the stock</p>

7 (Pages 22 to 25)

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1 award, the shares were restricted so no taxes
 2 were due at that time, but when the restrictions
 3 were lifted, the tax consequences had to be
 4 settled. And with that, having to be in a
 5 position to sell the shares of stock to raise
 6 the cash to pay the taxes, the company made a
 7 loan to each of these three officers, myself
 8 included, to allow us to be able to pay the tax
 9 consequences on those shares of stock. And
 10 those are the shares that I mentioned a few
 11 moments ago about receiving 15,000 shares but I
 12 couldn't recall the year that I received those.

13 Q. And how were the amounts of the loans
 14 calculated?

15 A. They were a rough estimate of the tax
 16 consequences due on the number of shares of
 17 stock based on their fair market values.

18 Q. And who calculated those loans?

19 A. I'm sure I was probably involved in the process.

20 Q. How were those loans approved? Were they
 21 approved at the company level or did they have
 22 to go up to the board of directors?

23 A. I think the board of directors approved those
 24 loans.

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1 Q. Was that part of the arrangement in 2000 when
 2 the loans were made?

3 A. I don't think so.

4 Q. Was it understood at the time that those loans
 5 would be forgiven in that manner?

6 MR. MINGOLLA: Objection.

7 Q. Did you understand at that time that those loans
 8 would be forgiven in that manner?

9 A. No one told me that the loans would be forgiven
 10 at some time in the future. I was under the
 11 assumption I would have to repay the loan.

12 Q. During 2000, do you recall making payments on
 13 that loan?

14 A. No, I don't recall making any payments on it.

15 Q. Do you have a copy of that loan agreement?

16 A. I can find a copy of the loan agreement. I
 17 think it was even filed as an exhibit to the SEC
 18 filings.

19 Q. Do you know if the amendments to that loan
 20 agreement that are mentioned here in Note 7 were
 21 filed as well?

22 A. I would have to go look. I don't recall.

23 Q. In 2002, did your responsibilities change at
 24 all?

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1 Q. Do you recall approximately when they were
 2 approved?

3 A. I assume it was in early 2000.

4 Q. And if you look a sentence below, it says, "In
 5 December 2001, the Compensation Committee of the
 6 Company's Board of Directors agreed to amend the
 7 loan agreements, resulting in the forgiveness of
 8 principal and accrued interest." Can you tell
 9 me something about the circumstances of that
 10 loan forgiveness?

11 MR. MINGOLLA: Objection as to form.

12 A. When you say tell you something about it, what
 13 do you mean?

14 Q. What do you recall about the circumstances of
 15 the board of directors approving those loan
 16 forgivenesses?

17 A. I think there was a concept to forgive some
 18 portion of the loan in each of X number of
 19 successive years, and I think I recall a
 20 percentage of it being forgiven in 2000 and then
 21 maybe more or less the equivalent amount being
 22 forgiven with the following year, with the idea
 23 that it would be forgiven over X number of
 24 years, perhaps even five years. I don't recall.

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1 A. They did not.

2 Q. Did your positions change at all?

3 A. No.

4 Q. Do you recall approximately what your
 5 compensation was in 2002?

6 A. I think it was about 200,000.

7 Q. Did you receive any bonus in 2002?

8 A. I think I did, but I couldn't tell you how much
 9 it was.

10 Q. Did you receive any stock or options in 2002?

11 A. I think the only stock I received were as
 12 contributions to my 401(k) plan, and I did
 13 receive stock options; and I would speculate
 14 that the number was 50,000.

15 Q. Approximately how much were the 50,000 stock
 16 options worth at the time?

17 A. Worth in terms of?

18 Q. Dollars.

19 A. Well, they were granted at fair market value, so
 20 on the day you received them, there's no
 21 intrinsic value there. They're exercisable at
 22 the price of the stock that day, so it's
 23 nonetheless the stock appreciates in value that
 24 there's any value there.

<p style="text-align: right;">Page 30</p> <p>1 Q. Have you exercised any of the stock options? 2 MR. MINGOLLA: Which options are we 3 referring to, the ones he received in 2002 or 4 any prior ones? 5 MR. FINE: 2002. 6 A. I don't think I have, but I would have to go 7 back and look at a schedule to tell you that for 8 sure. 9 Q. Did you exercise any of the options you received 10 in prior years or have you? 11 A. I have exercised options that I have received in 12 prior years. 13 Q. In 2003, did your position or responsibilities 14 change? 15 A. No. 16 Q. And do you recall approximately how much you 17 received in salary in 2003? 18 A. I would guess somewhere between 230 and 250,000. 19 Q. Did you receive any bonus in 2003? 20 A. I think I did, but I don't recall the amount. 21 Q. Did you receive any stock or options in 2003? 22 A. I received shares of stock in my 401(k) plan, 23 the maximum contribution, and I think I got 24 stock options that year, but I couldn't tell you</p>	<p style="text-align: right;">Page 32</p> <p>1 resigned from the board in 2004 in advance of 2 being listed on the New York Stock Exchange. 3 Q. And in advance of 2004, how many independent 4 directors were on the board? 5 A. I would say there had been four or five outside 6 independent directors and four inside. 7 Q. Did any of your positions or responsibilities 8 other than leaving the board of directors change 9 after 2003? 10 A. No. 11 Q. Okay. Bentley Pharmaceuticals owns a 12 corporation called Laboratorios Belmac; is that 13 correct? 14 A. It owns the shares of a company called 15 Laboratorios Belmac S.A. 16 Q. Okay. Do you hold any position with 17 Laboratorios Belmac? 18 A. I don't hold a position other than a membership 19 on the board of directors. 20 Q. How long have you held a position on the board 21 of directors of Laboratorios Belmac? 22 A. I don't recall the date that I first became a 23 member of the board, but it probably dates back 24 into the 1990s.</p>
<p style="text-align: right;">Page 31</p> <p>1 how many. 2 Q. Did you also have any loan forgiveness in 2003? 3 A. I think the balance of the loan was forgiven in 4 2003. 5 Q. And was a portion of that loan also forgiven in 6 2002? 7 A. It was. 8 Q. You mentioned a few minutes ago that you're no 9 longer on the board of directors of Bentley 10 Pharmaceuticals. 11 A. That's right. 12 Q. When did that change occur? 13 A. I think that happened in 2004. 14 Q. How did that change occur? 15 A. I voluntarily resigned from the board in 2004 in 16 preparation for us being listed on the New York 17 Stock Exchange. We had been previously listed 18 on the American Stock Exchange, and there were a 19 lot of corporate governance reforms taking place 20 at that time; and we wanted to follow what was 21 considered good form as far as corporate 22 governance. So we wanted to minimize the number 23 of insiders that were included on the board and 24 have outsiders on the board. So I voluntarily</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Do you recall whether it was the early 1990s or 2 the later 1990s? 3 A. If I had to guess, I would say mid-1990s, but I 4 don't have the specific date. 5 Q. I'd like to show you another document. 6 (Document Bates Number BEL 7 006982-006987 was marked Exhibit Number 8 2 for identification.) 9 Q. If you turn to Page 2 of this exhibit, you'll 10 see a table marked Consejo de Administracion? 11 A. I see that. 12 Q. Do you know what consejo de administracion 13 means? 14 A. No, I don't. 15 Q. Do you have a rough understanding what it means? 16 MR. MINGOLLA: Objection. 17 A. I know "de" is "of," and I know "administracion" 18 is probably "administration," but I'm not sure 19 what "consejo" is. 20 Q. Do you know if that means board of directors? 21 A. I don't know. 22 Q. Okay. If you look to 1990 -- the column marked 23 1993 -- actually, it's the second column marked 24 1993.</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Okay.</p> <p>2 Q. A date under that -- of the first row, the row 3 marked Belmac.</p> <p>4 A. Okay.</p> <p>5 Q. Does that refer to Laboratorios Belmac?</p> <p>6 A. I would assume this means Laboratorios Belmac 7 S.A.</p> <p>8 Q. And not Belmac Corporation?</p> <p>9 A. Not Belmac Corporation, no.</p> <p>10 Q. And the reason you would assume that?</p> <p>11 A. Primarily because the language is in Spanish and 12 there are two divisions here, one for Belmac and 13 one for Davur.</p> <p>14 Q. And if you look down on the second column for 15 1993, that's marked 16-12-1993. And I'm 16 assuming that's a European date, so it would be 17 the 16th of December, 1993. Is that what you 18 would understand?</p> <p>19 A. That's my assumption.</p> <p>20 Q. You'll notice that you're listed under vocales, 21 Michael D. Price. That's you, correct?</p> <p>22 A. That's right.</p> <p>23 Q. Do you know what a vocales is?</p> <p>24 A. I do not.</p>	<p style="text-align: right;">Page 36</p> <p>1 about right?</p> <p>2 A. Yes, it looks to be --</p> <p>3 Q. It looks to be cut off.</p> <p>4 A. -- it's cut off from the prior page.</p> <p>5 Q. And you're also listed in each of the columns 6 there that has writing in it, the 1999 column, 7 2000, '01, '02, '02 again, '03, '04, and '05. 8 Is that accurate?</p> <p>9 A. That is correct.</p> <p>10 Q. And you're listed as a consejero in the 1999, 11 2000, 2001, and the first column of 2002; is 12 that correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And then, you're listed as a consejero delegado 15 in the columns marked -- the second column for 16 2002, the column for 2003, '04, and '05; is that 17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Do you recall what a consejero delegado is?</p> <p>20 A. I don't know.</p> <p>21 Q. Do you recall in 2002 being made a consejero 22 delegado?</p> <p>23 A. I don't recall that, no.</p> <p>24 Q. Do you recall any discussions about being made a</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. You're also listed again in that column; is that 2 correct?</p> <p>3 A. I am.</p> <p>4 Q. And you're listed there under consejeros; is 5 that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what a consejero is?</p> <p>8 A. No, I don't.</p> <p>9 Q. Does this document help reflect -- refresh your 10 recollection as to when you might have been 11 appointed to the board of directors of 12 Laboratorios Belmac?</p> <p>13 A. Again, I would have assumed that it was in the 14 mid-1990s, and I'm not really sure what those 15 terms mean, so...</p> <p>16 Q. And if you look into the columns for 1994, 17 you're again listed as a vocales on all of those 18 columns; is that correct?</p> <p>19 A. That's right.</p> <p>20 Q. And you're also listed as a consejero on all of 21 those columns; is that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. And if you turn to the next page and you look at 24 the top, it says Consejo de Adminis. Is that</p>	<p style="text-align: right;">Page 37</p> <p>1 consejero delegado?</p> <p>2 A. No.</p> <p>3 Q. Do you know how you were made a consejero 4 delegado?</p> <p>5 A. I don't recall.</p> <p>6 Q. And if you look down to the column marked Davur, 7 that's Laboratorios Davur; is that correct?</p> <p>8 A. That's my assumption, Laboratorios Davur S.L.</p> <p>9 Q. Is that another subsidiary of Bentley 10 Pharmaceuticals?</p> <p>11 A. That's a wholly owned subsidiary of Laboratorios 12 Belmac S.A.</p> <p>13 Q. And there's nothing on the columns labeled 6983 14 other than Davur, other than the titles 15 presidente, consejeros delegado, et cetera?</p> <p>16 A. That's correct.</p> <p>17 Q. And if you turn to the next page, beginning with 18 1998, there are individuals in those columns, 19 correct?</p> <p>20 A. Yes, there are.</p> <p>21 Q. And are you listed in any of those columns?</p> <p>22 A. I'm listed beginning in 1999, as of 23 November 29th, 1999.</p> <p>24 Q. As a vocales?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. As a vocales. 2 Q. And nothing in 2000 or 2001? 3 A. There's nothing in those columns for 2000 and 4 2001. 5 Q. Was Laboratorios Davur founded in 1998? 6 A. That sounds about right. It was founded in the 7 late 1990s. 8 Q. So if there's nothing in a column before 1998, 9 that would indicate that no individual held that 10 position? 11 A. I think the company was not even in existence 12 prior to that. 13 Q. And do you know why there's nothing listed in 14 the columns for 2000 and 2001? 15 MR. MINGOLLA: Objection, foundation. 16 Q. Is there anything listed in the columns 2000 and 17 2001? 18 A. There's nothing in 2000 or 2001 for Davur. 19 Q. Do you know why there's nothing listed in the 20 columns for 2000 or 2001? 21 A. I don't know. 22 Q. And in the columns for 2002, both of those, in 23 the first one, you're listed -- in both of 24 those, you're listed as a vocale?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Do you receive compensation from Laboratorios 2 Davur? 3 A. I do not. 4 Q. Do you receive compensation from any other 5 Spanish company owned either in whole or in part 6 directly or indirectly by Bentley 7 Pharmaceuticals? 8 A. I do not. 9 Q. And that includes salary? 10 A. That includes any form of compensation; salary, 11 bonus, stock options, benefits. It includes 12 anything. 13 Q. Do you recall approximately how many times 14 you've traveled to Spain -- 15 A. I would -- 16 Q. -- from -- let's see -- from 1993 to the present 17 in each year? 18 MR. MINGOLLA: For any purpose? 19 MR. FINE: For any purpose. 20 A. I would say the average was three times per year 21 on average, but there were probably times that I 22 went as many as five times a year and as few as 23 one. 24 Q. And for what purposes did you travel to Spain in</p>
<p style="text-align: right;">Page 39</p> <p>1 A. Right. 2 Q. And, in fact, you're listed as a vocale in both 3 those columns 2002, 2003, 2004, and 2005, right? 4 A. That's right. 5 Q. And beginning in 2002, you're also listed as a 6 consejero delegado? 7 A. Beginning in 2002. 8 Q. And that's about the same time that you're 9 listed -- actually is at the same time that 10 you're listed as a consejero delegado for 11 Belmac; is that correct? 12 A. Beginning in 2002, that's correct. 13 Q. Do you know if you are at present either a 14 consejero or a consejero delegado of Belmac or 15 Davur? 16 MR. MINGOLLA: I will object. 17 A. I don't understand what those terms mean. My 18 understanding is I'm a member of the board of 19 directors, but I don't know what these terms 20 are. 21 Q. In your capacity as a member of the board of 22 directors or any other capacity, do you receive 23 compensation from Laboratorios Belmac? 24 A. I do not.</p>	<p style="text-align: right;">Page 41</p> <p>1 that period? 2 A. I would say primarily for information gathering, 3 to make sure that our filings with the 4 Securities and Exchange Commission were complete 5 and accurate and just to make sure I understood 6 the business model over there. 7 Q. And how -- who did you meet with when you went 8 over for information gathering? 9 A. Primarily the finance department and the general 10 manager. 11 Q. And who was in the finance department 12 approximately -- let me rephrase that. That's 13 pretty broad. How many people were in the 14 finance department -- 15 MR. MINGOLLA: Objection. What time? 16 Q. -- of Laboratorios Belmac? 17 A. You know, in the beginning, back in the early 18 1990s, I would say there were probably four to 19 six people in the finance department. All the 20 way up through the present day, there are 21 probably ten people in the finance department. 22 Q. And does Laboratorios Davur have a separate 23 department? 24 A. Laboratorios Davur has its own set of employees.</p>

<p>1 However, I think that -- I think there may be a 2 group of employees at Belmac that actually 3 performed the accounting functions for Davur and 4 Rimafar.</p> <p>5 Q. You mentioned the one purpose for which you go 6 over to Spain is to gather information. Is that 7 for Bentley?</p> <p>8 A. That's for me to be able to file consolidated 9 financial statements and put proper disclosures 10 in those filings with the Securities and 11 Exchange Commission.</p> <p>12 Q. Which are filed for Bentley, is that correct?</p> <p>13 A. Which are Bentley filings.</p> <p>14 Q. And those people in the finance department at 15 Laboratorios Belmac, you testified that you meet 16 with them. How much contact do you have with 17 them when you're not visiting Spain?</p> <p>18 MR. MINGOLLA: Objection, vague as to 19 time frame.</p> <p>20 Q. Let's say 1993 to 1999.</p> <p>21 A. In 1993, I had minimal contact with them. You 22 know, we may speak on the phone occasionally if 23 I needed information or had questions, but as we 24 progressed through the years, '94, '95, '96, on</p>	<p>1 staff may have been responsible for 2 communicating, but once I became responsible for 3 the function, I would say it was me and Elaine 4 Melia, whose name I mentioned earlier, Karen 5 Garda, whose name I mentioned earlier.</p> <p>6 Q. And these -- you would have a weekly approximate 7 phone conversation with folks in the finance 8 department at Laboratorios Belmac; is that 9 right?</p> <p>10 MR. MINGOLLA: Objection.</p> <p>11 A. I don't know that it was weekly. It was 12 periodic. It was whenever it was necessary.</p> <p>13 Q. Approximately how many times per month? I'm 14 trying to get a sense of, you know, how the 15 finance function works, so anything you could 16 tell me would be helpful.</p> <p>17 A. Well, they provided monthly financial 18 statements, so we were trying to consolidate the 19 financial statements and understand any 20 relationships that didn't appear as expected 21 through that process. We would then ask 22 questions or try to get clarification. So it 23 was something that probably happened in relation 24 to that monthly financial statement processing</p>
<p>1 into the '90s, I would say the contact became 2 more frequent.</p> <p>3 Q. Approximately how frequent?</p> <p>4 A. I don't know that we spoke every week, but 5 perhaps every two or three weeks.</p> <p>6 Q. Did you send e-mail back and forth?</p> <p>7 A. Not in the early 1990s. I think we didn't start 8 using e-mail as a company until the late 1990s, 9 and initially, it was not very frequent.</p> <p>10 Q. Did you send faxes back and forth?</p> <p>11 A. I would say faxes were much more common back 12 then.</p> <p>13 Q. And was there anyone else in the finance 14 department at Bentley who had contact with 15 people in the finance department at Laboratorios 16 Belmac?</p> <p>17 MR. MINGOLLA: Objection, vague as to 18 time frame.</p> <p>19 Q. In the time frame we're talking about, '93 to 20 '99.</p> <p>21 A. In 1993 -- in early 1993, we still had a 22 controller at the company called David West, who 23 was responsible for the finances and accounting 24 of the company. And I'm not sure who on his</p>	<p>1 function. So it's possible that during that 2 week that we were doing that, there may be 3 several phone calls or faxes during that week, 4 but maybe not so many the other three weeks of 5 the month, as an example.</p> <p>6 Q. And after 1999 -- say, from 1999 to 2002, what 7 was the nature and extent of your contacts with 8 the finance people at Laboratorios Belmac?</p> <p>9 A. Again, I think it was a similar process, 10 although I think that the methodology had 11 probably changed by then. Perhaps they were 12 using e-mail. Perhaps they were sending their 13 files over electronically as opposed to by fax 14 or by whatever other means, but still primarily 15 the contact was of a financial nature, to try to 16 understand the financial statements, what they 17 meant, what the trends were, et cetera.</p> <p>18 Q. And who was the contact with at Laboratorios 19 Belmac?</p> <p>20 A. It was different at different times, but in the 21 early '90s, it was with a gentleman by the name 22 of Federico de Salas.</p> <p>23 Q. In the mid-'90s?</p> <p>24 A. From the mid-'90s into the late '90s, maybe even</p>

<p>Page 46</p> <p>1 in the early 2000s, it was Jose Maria Esteve. 2 Q. And after Mr. Esteve? 3 A. After that, Ester Sanchez. 4 Q. Anyone else? 5 A. Most recently, Emilio Barta Perez, over the last 6 several months, last year. 7 Q. And did you have any contacts with anyone else 8 at Laboratorios Belmac about Laboratorios 9 Belmac's finances? 10 A. A lady by the name of Paloma Rodriguez. 11 Q. When was that? 12 A. I would say that's over the past six years, six 13 or seven years. 14 Q. And what's her position? 15 A. She's now controller. 16 Q. Controller -- 17 A. Of Belmac. 18 Q. Does Laboratorios -- does Bentley 19 Pharmaceuticals have a controller now? 20 A. We do. 21 Q. And who's that? 22 A. That's Bob Hebert, H E B E R T, and he's been 23 with the company for about three years now. 24 Q. Three years. Did you have responsibility for</p>	<p>Page 48</p> <p>1 Mr. De Salas, Mr. Esteve, Ester Sanchez, Emilio 2 Perez, and Paloma Rodriguez, are there any other 3 individuals with whom you've had contact at 4 Laboratorios Belmac about Belmac's finances? 5 A. I guess you could loosely construe that the 6 conversations were about finances when I would 7 speak with the general managers of the company. 8 Q. And who were they? 9 A. Back in the early 1990s, it was Angel Perez de 10 Ayala. After him came Clemente Gonzalez, and 11 after him, Adolfo Herrera. 12 Q. And why do you say loosely construe? 13 A. If I didn't get adequate answers or couldn't 14 understand the explanations given by somebody in 15 the finance department, I may have a follow-up 16 conversation just to make sure I had a complete 17 understanding, to make sure our filings with the 18 Securities and Exchange Commission were 19 accurate. 20 Q. And do you recall any specific instances in 21 which you had those conversations with the 22 general managers? 23 A. Not specifically, no. 24 Q. For the earlier period, do you recall any of the</p>
<p>Page 47</p> <p>1 control from '93 to, say, 2003 when Mr. Hebert 2 came on board? 3 MR. MINGOLLA: Objection, vague. 4 A. Did I have responsibilities for? 5 Q. The responsibilities for the control function at 6 Laboratorios -- sorry, at Bentley 7 Pharmaceuticals. 8 A. As chief financial officer, I was ultimately 9 responsible for the financials of the company. 10 I was the principal financial officer of the 11 company, but I did have people that reported to 12 me that essentially performed the same function 13 that Bob Hebert now performs as controller, but 14 the title was not controller, and those 15 people -- 16 Q. What was that? 17 A. -- were people I already mentioned, including 18 Elaine Melia and Karen Garda. 19 Q. Other than -- well, let me give you another 20 document. 21 (Bentley Pharmaceuticals, Inc. List of 22 Subsidiaries was marked Exhibit Number 3 23 for identification.) 24 Q. And to backtrack for just a second, other than</p>	<p>Page 49</p> <p>1 specific conversations from, say, '93 to '99? 2 A. Nothing specific, no. 3 Q. Anything from '99 to 2002? 4 A. No. 5 Q. Anything from 2002 to the present? 6 A. With respect to specific issues or? 7 Q. Any specific conversations. You said you had or 8 you testified you could loosely construe certain 9 conversations with the general managers as 10 relating to the finance function. 11 MR. MINGOLLA: I'll object only to the 12 portion of the question "to the present." I 13 think that's beyond -- well beyond Phase 1. 14 A. Just in general -- no specifics, but just in 15 general where the general manager may call up 16 and say, "We reported X number of millions of 17 revenues in euros and the number is X," but 18 nothing beyond that. 19 Q. Anything from 2002 to 2004? 20 A. Not specifically, no. 21 Q. I'd like you to take a look at this exhibit, 22 which is, I think, Exhibit 3. And I will 23 represent to you that this has been produced to 24 us and is called Bentley Pharmaceuticals,</p>

<p style="text-align: right;">Page 50</p> <p>1 Incorporated List of Subsidiaries. 2 A. Yes. 3 Q. Is Pharma de Espana a subsidiary of Bentley 4 Pharmaceuticals? 5 A. Pharma de Espana is a wholly owned subsidiary of 6 Bentley Pharmaceuticals, Inc. 7 Q. How long has it been a wholly owned subsidiary 8 of Bentley Pharmaceuticals, Inc.? 9 A. Since the late 1990s, maybe around 1997 or 1998. 10 Q. And is this incorporated in the United States, 11 Pharma de Espana? 12 A. It is. It's a Delaware company. 13 Q. Delaware company? 14 A. Uh-huh. 15 Q. And why was it incorporated? 16 A. It was incorporated to be the shareholder of 17 Laboratorios Belmac. 18 Q. I'm sorry. I don't understand that. What do 19 you mean by shareholder of Laboratorios Belmac? 20 A. The shares of Laboratorios Belmac are owned by 21 Pharma de Espana, which are then owned by 22 Bentley Pharmaceuticals, Inc. 23 Q. And is that a wholly owned subsidiary of Bentley 24 Pharmaceuticals, Inc.?</p>	<p style="text-align: right;">Page 52</p> <p>1 you could look back in Exhibit Number 1 that we 2 talked about, and in Note 2, it will give you a 3 depiction of who owns who. And that's on Page 4 F-8. 5 Q. Why was Bentley Healthcare Corporation founded? 6 A. I think that was a U.S. corporation. It's a 7 Florida corporation, and I think it was 8 established back in the early 1990s to sell 9 disposable linens. 10 Q. And when was -- early 1990s, you testified? 11 A. I'm guessing in 1992, 1993 time frame. 12 Q. And Belmac Health Corporation, when was that 13 incorporated? 14 A. Probably in a similar time frame, but I can't 15 recall any of the specifics of the operations of 16 that company. 17 Q. Is that a United States company? 18 A. It is. 19 Q. And Belmac Hygiene, Incorporated, when was that 20 founded? 21 A. Belmac Hygiene was probably founded in the early 22 1990s. 23 Q. And is that a U.S. entity? 24 A. I think that's also a Florida company.</p>
<p style="text-align: right;">Page 51</p> <p>1 A. It was a wholly owned subsidiary of Pharma de 2 Espana. 3 Q. Going back to Pharma de Espana, does Pharma de 4 Espana own any other things than shares in 5 Laboratorios Belmac? 6 A. It also -- I would have to verify this. I think 7 it now owns a company called Bentley API, Inc. 8 or Bentley API S.L. 9 Q. Does it own anything else? 10 A. No. 11 Q. And Laboratorios Davur, you've testified, is a 12 wholly owned subsidiary of Laboratorios Belmac; 13 is that correct? 14 A. That's correct. 15 Q. And Laboratorios Belmac is a wholly owned 16 subsidiary of Pharma de Espana, which is a 17 wholly owned subsidiary of Bentley 18 Pharmaceuticals. I'm trying to develop a sense 19 of the corporate structure here. 20 A. That's correct. 21 Q. Bentley Healthcare Corporation, what is that? 22 A. Bentley Healthcare Corporation is owned by 23 Bentley Pharmaceuticals, I think. If you want 24 to get a good sense for the corporate structure,</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. And Belmac Holdings, Incorporated, when was that 2 incorporated? 3 A. I think Belmac Holdings was incorporated before 4 I came to work at the company, so I don't know 5 the date. 6 Q. And do you know what the purpose of Belmac 7 Holdings is or was? 8 A. I don't know. 9 Q. Do you know -- 10 A. It's not an active subsidiary. 11 Q. And Belmac A.I., Incorporated, when was that 12 incorporated? 13 A. I think that was incorporated before I came to 14 work here as well. 15 Q. Is that an active subsidiary? 16 A. It is not active. As a matter of fact, the only 17 active companies on that list -- and by the way, 18 this list was put together because it was 19 Exhibit 21.2 to the annual report Form 10-K 20 filed with the Securities and Exchange 21 Commission that requires a list of all the 22 subsidiaries. So the only active companies on 23 this list are Pharma de Espana, which is a 24 holding company; Laboratorios Belmac,</p>

<p>1 Laboratorios Davur, and that's it. The others 2 are inactive.</p> <p>3 Q. Okay. You've testified that you're the CFO of 4 Bentley Pharmaceuticals, Inc. and that you have 5 responsibility for drafting, reviewing, and 6 filing Bentley's public disclosures and SEC 7 filings; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. I'd like you to explain to me a little 10 bit about how SEC filings have been drafted 11 since 1999. Could you run me through the 12 process for a 10-K?</p> <p>13 MR. MINGOLLA: I assume you're 14 referring to Bentley filings?</p> <p>15 MR. FINE: Yes. Did I say Bentley 16 Pharmaceuticals?</p> <p>17 MR. MINGOLLA: Well, you didn't 18 mention any company specifically. I just wanted 19 to make sure you're asking for his understanding 20 about how Bentley prepares its SEC filings.</p> <p>21 Q. Do any of Bentley's subsidiaries provide any SEC 22 filings?</p> <p>23 A. Only Bentley Pharmaceuticals, Inc. The process, 24 for example, for an annual report on 10-K is to,</p>	<p>1 Q. And generally, that's Laboratorios Belmac 2 because you've testified that Laboratorios 3 Davur's finances are handled by Laboratorios 4 Belmac in terms of financial reporting?</p> <p>5 A. That's pretty much right. Laboratorios Belmac 6 has to provide its own financial statements on a 7 stand-alone basis on a statutory -- Spanish 8 statutory accounting basis to the Spanish 9 government. Davur has to provide its own. 10 Rimafar has to provide its own, but then each of 11 those three separate ones are rolled into 12 consolidated Belmac, which are then forwarded to 13 us.</p> <p>14 Q. Who audits those in Spain?</p> <p>15 A. That's Deloitte & Touche.</p> <p>16 Q. And are those also audited in the United States?</p> <p>17 A. They are -- I'm not going to say that they 18 duplicate the procedures that are performed in 19 Spain because the purpose of the financials in 20 Spain is really different than the purpose here 21 in the U.S. In Spain, it's primarily a tax 22 process over there, where they're trying to make 23 sure the financial statements are accurate for 24 tax-paying purposes, so they're completed in</p>
<p>1 first of all, complete the financial statements 2 that would be included as an exhibit to those 3 and then use that as the basis for drafting the 4 management's discussion and analysis section.</p> <p>5 Q. When does that start, the drafting of the 6 financials?</p> <p>7 A. I would say it probably starts right around year 8 end.</p> <p>9 Q. And do you send out a request for information at 10 the year end?</p> <p>11 A. We have a reporting package that is prepared by 12 the subsidiaries and audited by the accountants, 13 and then the audited financial results are 14 forwarded to Bentley Pharmaceuticals, Inc., 15 where they're consolidated along with Bentley's 16 financial statements and consolidated financials 17 are prepared. And then it's those financials 18 that provide the basis for the annual report on 19 Form 10-K.</p> <p>20 Q. And if you have questions about the financial 21 information being reported by the subs, you 22 would get in touch with the finance department 23 of the sub in question?</p> <p>24 A. I or somebody working for me would do that, yes.</p>	<p>1 conformance with Spanish statutory requirements. 2 The accounting principles that are used in Spain 3 for the most part are the same as in the U.S., 4 but there are certain differences, and those 5 differences have to be taken into account in 6 order to be able to transform those Spanish 7 statutory accounts into U.S. GAAP, or generally 8 accepted accounting principles, financial 9 statements format and then consolidated along 10 with Bentley's.</p> <p>11 Q. Who performs that work? Who transforms the 12 Spanish statutory accounts --</p> <p>13 A. A combined effort of both our Spanish employees 14 at Laboratorios Belmac before we get the 15 financials, and then there's some additional 16 adjustments that need to be made in the U.S.; 17 and Bentley performs those adjustments, but it's 18 relatively easy to take those audited financial 19 statutory statements and make those adjustments, 20 and then you don't have to duplicate all the 21 initial work that was performed on the Spanish 22 statutory financials, but then Deloitte can take 23 that as a beginning point and add it the 24 adjustments that get made.</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. How long does that take? So this starts at the 2 year end; by February, you guys have -- 3 A. I would say typically the process can begin by 4 late January, the audit process, and typically, 5 before the end of February, we have audited 6 financial Spanish statutory accounts. 7 Q. And when do you have U.S. GAAP? 8 A. The financials are typically finished up right 9 around the end of February on a consolidated 10 basis. The statutory filings are now different, 11 but back in the time frame that we're speaking 12 of, the requirement was that the annual report 13 of Form 10-K had to be filed within 90 days of 14 year end. 15 Q. And that's fiscal year end or -- 16 A. That's right, which is a calendar year for us. 17 Q. Okay. And then those financial statements, you 18 testified, are the basis for management's 19 discussion analysis? 20 A. Right, and then in addition to that, there are 21 many other requirements that have to be included 22 on this annual report on Form 10-K. For 23 example, you have to describe the properties 24 owned by the company, you have to describe the</p>	<p style="text-align: right;">Page 60</p> <p>1 1998? 2 A. That's right, it's grown, primarily as a result 3 of the whole Sarbanes-Oxley requirements as far 4 as controls and segregation of duties, et 5 cetera. 6 Q. And you testified earlier that the U.S. GAAP- 7 compliant financials are the basis for the MD 8 and A. Could you tell me how the MD and A is 9 drafted? 10 A. Sure. There are specific requirements as far as 11 management's discussion and analysis, and those 12 are spelled out by the Securities and Exchange 13 Commission, but you have to try to give the 14 reader a view of what the company's business is 15 like from the views and from the viewpoint of 16 management. So you're essentially trying to 17 explain what drove the increases in revenues, 18 what happened to margins, what's happening to 19 operating expenses in relation to the growth in 20 revenues, what's happening to the financial 21 position of the company, whether your liquidity 22 is improving or whether you have liquidity 23 issues that you may need to confront in the 24 future, et cetera.</p>
<p style="text-align: right;">Page 59</p> <p>1 business of the company, you have to list the 2 officers and directors, their backgrounds, et 3 cetera. 4 Q. Who does that background work? 5 MR. MINGOLLA: Objection. Are you 6 referring to all the background work he just 7 referenced or any specific aspect? 8 Q. All of it with the exception of MD and A. 9 A. It's a concerted effort by me and the other 10 people in the finance department. 11 Q. And who are they? 12 A. Today or -- 13 Q. Yes, today. 14 A. It would be -- in addition to me, it would be 15 Bob Hebert, the controller; it would be Sandy 16 Cassetta, the accounting manager; it would be 17 Art Ludwig, L U D W I G, financial analyst; 18 maybe a little bit by Laurel Fauteux, 19 F A U T E U X. 20 Q. In 1999? 21 A. That would be Elaine Melia. It was really just 22 Elaine Melia and me at that point. 23 Q. So it sounds like the finance function at 24 Bentley has expanded pretty dramatically since</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. And in 1999, who wrote the first draft of the MD 2 and A? 3 A. I'm going to speculate that I did. I couldn't 4 tell you for sure, but I think I did. 5 Q. And who reviewed that draft? 6 MR. MINGOLLA: Objection, foundation. 7 A. I can't specifically tell you who reviewed that 8 draft, but I can -- 9 Q. Did anyone review that draft before it was filed 10 with the SEC? 11 A. I can tell you after I created the draft that it 12 was distributed to the officers of the company 13 and to the directors of the company, and 14 everybody had an opportunity to read it and 15 provide input. 16 Q. Okay. And about how long did that drafting 17 process take? 18 A. You know, it's a process that begins early in 19 the year, and it has to be -- at that time, had 20 to be filed within 90 days of year end, so it's 21 something that primarily took place between days 22 30 and 90. 23 Q. Did any attorneys review that draft? 24 MR. MINGOLLA: Objection, foundation.</p>

<p style="text-align: right;">Page 62</p> <p>1 Assumes one draft was in existence. 2 Q. Did any attorneys review any draft of the MD and 3 A? 4 A. In what time frame are we talking about? 5 Q. In 1999. 6 A. In 1999, our outside legal counsel was Parker 7 Chapin, and they were integrally involved in the 8 processes. 9 Q. So were drafts exchanged back and forth with 10 Parker Chapin? 11 A. Yes. 12 MR. FINE: Okay. I'd actually like to 13 take a quick break before we get some documents, 14 if that's okay with you. 15 THE WITNESS: Sure. 16 (Recess taken from 10:26 a.m. to 17 10:42 a.m.) 18 Q. I just wanted to come back to something pretty 19 quickly. You said in, I think, 1996 that you 20 received 400,000 stock options? 21 A. That's right. 22 Q. What was that for? Is that a lot of stock 23 options? 24 A. It was a lot of stock options, and it was -- the</p>	<p style="text-align: right;">Page 64</p> <p>1 own because I did not sell all the shares. I 2 sold very few of the shares actually. 3 Q. So you exercised the stock option for about 4 \$3 million of Bentley stock and liquidated about 5 400,000 of that? 6 A. Well, I was taxed on the intrinsic value, which 7 was roughly \$3 million, between what I paid and 8 what the stock was worth at the time. So I had 9 to pay taxes on the 3 million, but I sold only 10 enough shares to be able to raise enough capital 11 to be able to purchase the shares and still 12 own -- today, I still own more than 200,000 of 13 the shares. 14 Q. How many shares of Bentley Pharmaceuticals do 15 you now own? 16 A. 200,300. 17 Q. No fractional? 18 A. No fractional. 19 Q. And you know it to the penny? 20 A. Yes. 21 Q. Was this in part why the company extended a loan 22 in 2000 to offset -- 23 A. No, that wasn't really the issue. 24 Q. -- another grant of stock? And what were the</p>
<p style="text-align: right;">Page 63</p> <p>1 company was having financial difficulty at the 2 time, and in order to entice the management 3 group to stay committed to the company, stay 4 local to the company and continue employment in 5 the company even though its future was 6 questionable at the time, the board of directors 7 proposed to the shareholders and the 8 shareholders approved at an annual meeting of 9 the shareholders that the existing management of 10 the company, including Jim Murphy, Bob Stote and 11 myself, received 600,000, 500,000, and 400,000 12 stock options respectively. 13 Q. And have you exercised any of the stock options? 14 A. I have exercised all 400,000 of those. 15 Q. And how much did you realize from that? 16 A. When you say realize, how much cash did I bring 17 home? 18 Q. How much income before taxes did that produce or 19 how much cash did you bring home? 20 A. Well, those are two very different answers. It 21 produced income of in round numbers probably 22 \$3 million. How much cash did I bring home, 23 probably \$400,000 because the rest of it is 24 still residing in shares of stock that I still</p>	<p style="text-align: right;">Page 65</p> <p>1 financial difficulties that the company was in 2 at that time? 3 A. If you go back to 1993, 1994, and 1995 and even 4 into 1996, the company didn't have sufficient 5 working capital. The company was losing money. 6 It was depleting its existing cash reserves. It 7 was involved in a lot of litigation. It was a 8 struggling company, and the capital markets were 9 pretty tough at that point; and it was not easy 10 to go out and raise additional capital. 11 Q. Were you involved in efforts to raise additional 12 capital? 13 A. I was. 14 Q. And who else was involved in those efforts? 15 A. Toward the end, it was Jim Murphy who was 16 involved, but before he came back to the 17 company, it included Michael Harshbarger -- 18 yeah, I would say primarily Michael Harshbarger 19 before then. 20 Q. And what was the litigation that the company was 21 involved in? 22 A. The company was primarily involved in litigation 23 with respect to wrongful termination lawsuits 24 from prior officers and employees.</p>